

REMARKS

This paper is filed in response to the non-final Office Action mailed April 19, 2007.

Claims 1-3, 5-25, 30, 34-44, 47 and 48 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Hymel et al, WO 00/03328, in view of Lewis, U.S. Publication No. 2003/0105641. For the reasons set forth below, the Examiner is requested to reconsider this rejection.

As described generally, according to the disclosure, a wireless transaction can be requested, facilitated and fulfilled. As the Examiner will appreciate, a “wireless transaction” is now defined in the preamble of each independent claim. Thus, for example, in independent claims 1, 30 and 45, the “wireless transaction” is now explicitly described as “involving a purchase action with respect to a product or service, and a fulfillment action associated with the purchase action, the fulfillment action involving personal bodily entry into or through a physical structure using a wireless communication device.” Independent claim 47 recites a variant of this formulation; in particular, this claim describes the wireless transaction in this manner: “a transaction request and authorization with respect to a product or service, and a given action associated with the transaction request and authorization, the given action involving personal bodily access into a physical location using a wireless communication device, and wherein the given action is conditioned upon the transaction request and authorization.” Independent claim 48 recites a further variation, describing the wireless transaction as “involving a transaction request and an authorization with respect to a product or service, and a fulfillment event associated with the transaction request and authorization, the fulfillment event occurring at a point of fulfillment using a wireless communication device, and wherein the fulfillment event is conditioned upon the transaction request and authorization.” Thus, with these amendments, a single “wireless transaction” is now positively recited as including interrelated actions (e.g., purchase – physical access, physical access to a location conditioned upon transaction request and authorization, and so forth). The Examiner will also note that each independent claim that has been so amended uses these preamble-specific definitions throughout the claim body, and thus the preamble should be treated here as having patentable significance.

In a typical use scenario, requesting of such a wireless transaction as now positively recited requires a user to make a transaction request. In amended claims 1, 30 and 45, the Examiner will note that this request is performed using a “wireless communication device” and over a “wireless

communication link.” Upon approval of the transaction request, the “purchase” (or, more generally, “first”) action is complete, and this processing generates a transaction code. The transaction code is then communicated to a wireless or mobile device. Claims 1, 30 and 45 now recite that the transaction code be communicated via the wireless communication link. The independent claims 1, 30 and 45 now also reflect that the transaction code is “capable of being displayed on the wireless communication device and optically scanned for authorizing the fulfillment action at a point of fulfillment.” Independent claim 47 describes the first transaction code as being a two dimensional (2-D) code capable of being output from the wireless communication device and optically scanned for authorizing the given action (personal bodily access into the location, such as a theater, an enclosed area, or the like) at a point of fulfillment. When the transaction is to be fulfilled, the code sent to the wireless device is output (e.g., by display) from the wireless device and can be scanned by the fulfillment system for fulfillment of the wireless transaction. As described in amended claims 1, 30 and 45, the wireless transaction is completed when personal bodily entry into or through the physical structure is permitted.

Respectfully, the rejection based on a combination of the Hymel and Lewis references is traversed. Hymel relates generally to a targeted or affinity marketing and coupon delivery system, employing traditional transaction infrastructure (e.g., point of sale checkout, checkout clerk, coupons, checkout scanner) as the basis for its disclosed system. Unlike the subject disclosure, and as the Examiner apparently agrees (Office action, page 3, lines 6-7), Hymel does not disclose executing a transaction for a product or service involving physical fulfillment (such as physical entry into or through a physical structure). Hymel, rather, is concerned with scanning bar code coupons at the time the user is purchasing items associated with those coupons. No transaction request occurs in Hymel until the user is at the point of sale presenting items for purchase. At that time, the user presents bar coded coupons, which are then scanned by a scanner so that discounts can be applied. The scanning of the bar code does not result in the fulfillment of a transaction and of course does not permit personal bodily entry into or through a physical structure. Indeed, the purpose of the Hymel system is to collect demographic information and transmit targeted coupons. Thus, there is no motivation in Hymel to provide a system including the scanning of a bar code in fulfillment of a transacted-for-product or service so as to permit personal bodily entry into or through a physical structure.

Lewis, the secondary reference, teaches a system whereby an end user navigates to a web site from his/her desktop computer, purchases a ticket, and then receives the ticket back at the desktop computer. The ticket can then be printed at the computer and carried by the user to another location for use. If desired, instead of printing a hard copy of the ticket, the end user can further transfer the electronic ticket to a separate portable device, such as a PDA, e.g., by synchronizing the desktop computer data to the PDA. This action transfers the ticket to the PDA, in the form of a UPC-type code. The user then takes his or her PDA to another location. He or she uses the ticket to obtain access to an event, e.g., by displaying the UPC code (on the PDA) at a reader device.

With respect, the Examiner has erred in the conclusion that “Lewis teaches receiving a wireless transaction request” (Office action at page 3, line 8). In contrast, Lewis teaches only a single embodiment of a “customer computer 12 [] connected to an Internet Service Provider (ISP) system 14 via a connection 16, such as a telephone line. The ISP system 14 is further capable of connecting or finding a website being hosted by a vendor computer system 18. The ISP system 14 is connected to the vendor computer system 18 by a connection 20, such as a telephone line connection. Other examples of the connections 16 or 20 are cable, ISDN, T1 or other type of broadband connection [presumably DSL]. The customer computer 12 is allowed access to the vendor computer system 18 through the ISP system 14 by use of a commonly available web browser or similar software package.” See, Lewis, at [0020]. Thus, plainly Lewis teaches a home or desktop computer connected over a wired link to a website. As a result, Lewis is forced to include additional structure and functionality to transfer the ticket purchased from the website onto a handheld device. As described in [0027], the “ticket may be downloaded into the [handheld] device 112 in any known manner, such as infrared transmission, connecting a port on the device 112 to a port on the computer 102, or even by use of a disk.”

In addition, and with respect to independent claim 47, Lewis teaches the use of a simple UPC style code. At best, this is a linear or one dimensional (1D) bar code. The transaction code identified in claim 47 now requires a 2D bar code; while such codes are known in the art, they enable the system operator to encode additional or more detailed information as the particular application requires.

For these reasons, it is respectfully submitted that Lewis does not disclose or suggest a “wireless transaction” as the Examiner argued and as now positively recited in each of the independent claims. Rather, Lewis requires an end user to navigate to a website over a wired line-connected computer, and then take additional concrete steps to transfer the purchased ticket to the PDA or cellphone. Such steps and hardware are obviated by the “wireless transaction” contemplated herein. In this regard, the Examiner should also note the particular requirements in claims 1, 30 and 45 that the transaction be initiated from a wireless communication device, and that the communication (included the providing of the transaction code in response to the purchase authorization) occur over the wireless link. Any permissible combination of the cited references fails to meet these limitations.

Claims 26-29, 31-33 and 45 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ulvinen et al, U.S. Patent No. 6,393,305, and further in view of Hymel et al and Lewis. This rejection is also traversed, respectfully. The identified claims merely add the speaker authentication functionality, but the rejection is otherwise still deficient for the reasons set forth above. In particular, the references do not disclose or suggest the recited single “wireless transaction” that is defined as including the interrelated actions (e.g., purchase followed by personal bodily entry into a physical location, transaction request/authorization followed by personal access into a location using a 2D bar code output from a wireless communication device, or transaction request/authorization following by a fulfillment event at a point of fulfillment).

The undersigned new counsel of record has submitted a Power of Attorney (and associated Rule 3.73(b) showing). In addition, a three (3) month extension of time is submitted to extend the response deadline through October 19, 2007.

For the reasons set forth above, a Notice of Allowance is respectfully requested.

Respectfully submitted,



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